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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/293,163	04/16/1999	E. MICHAEL KERR	5593	4521

7590 02/17/2004

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EXAMINER

REDDICK, MARIE L

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/293,163

Applicant(s)

KERR ET AL.

Examiner

Judy M. Reddick

Art Unit

1713

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE.

Claim(s) objected to: NONE.

Claim(s) rejected: 1, 2 & 4-7.

Claim(s) withdrawn from consideration: 8-13.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Judy M. Reddick
Judy M. Reddick
Primary Examiner
Art Unit: 1713

Continuation of 2. NOTE: The newly proposed limitations "wherein the sulfonate containing polymer is selected from the group consisting of sulfomethylated polymers of acrylamide and acrylic acid and polymers comprising acrylamide, acrylic acid and acrylamido 2-methyl propane sulfonic acid" per claim 1 and "acrylamidomethyl sulfonate" per claims 6 and 7 engenders New Issues that would require further consideration and/or search as well as Issues of Indefiniteness. As to the Issues of Indefiniteness, "polymers comprising acrylamide, acrylic acid and acrylamido-2-methyl propane sulfonic acid" engenders an inconsistency with the known rules of Chemistry, i.e. it is not clear as to how polymer(s) can comprise these monomers VS monomer units or be derived from these monomers and it is not readily ascertainable as to how the recited "wherein the polymer is further characterized as comprising repeat units derived from ----- acrylamidomethyl sulfonate per claims 6 & 7 further limit the antecedently recited "sulfonate-containing polymer selected from the group consisting of sulfomethylated polymers of acrylamide and acrylic acid and polymers comprising acrylamide, acrylic acid and acrylamido 2-methyl propane sulfonic acid".

Continuation of 5. does NOT place the application in condition for allowance because: It is urged and maintained that claims 1, 2 and 4 7 stand rejected under 35 USC 102(b) as anticipated by or, in the alternative, under 35 USC 103(a) as obvious over Farrar et al as per reasons clearly stated in the last Office Action of 10/22/03.

Continuation of 10. Other: As to Counsel's arguments, it is believed that the arguments do not address the finally rejected claims. However, even if the Examiner has somehow missed the boat, Farrar et al @ col. 4, lines 14-16 teach that the dispersing agent is the defined copolymer of AMPS and acrylic acid and @ lines 58-62 teach that the monomers from which the copolymer is formed may also include a minor amount of other copolymerizable monomers provided that these monomers do not substantially diminish the effectiveness of the copolymer and @ lines 65-68 teach that the copolymers are known and made by methods such as those described in U.S. Pat no. 3,898,037 to Lange et al which clearly is evidentiary of "acrylamide" being an operable comonomer in the copolymer of Farrar et al..